

5101:3-3-20.1

- 9705 Legend Drugs
- 9710 Radiology
- 9715 Laboratory
- 9720 Oxygen - See rule 5101:3-3-11 of the Administrative Code.  
(This does not include emergency stand-by oxygen)
- 9725 Other-Specify: (E.G.,FOR COST REPORTING PURPOSES ONLY,  
REPORT IN THIS ACCOUNT SIXTY-NINE AND SEVEN -TENTHS  
PER CENT OF THE NE FRANCHISE PERMIT FEE INCURRED FOR  
FISCAL YEARS 2002 AND 2003 WHICH IS ASSESSED PURSUANT  
TO RULES 5101:3-3-49.2 TO 5101:3-3-49.9 OF THE  
ADMINISTRATIVE CODE AND REIMBURSED UNDER RULE  
5101:3-3-58 OF THE ADMINISTRATIVE CODE.)
- 9730 Late Fees, Fines or Penalties (as stated in "HCFA Publication 15-1")
- 9735 Federal Income Tax
- 9740 State Income Tax
- 9745 Local Income Tax
- 9750 Insurance-Officer's life  
This is non-reimbursable expense when the facility is the beneficiary,  
except as referenced in "HCFA Publication 15-1," section 2130.
- 9755 Promotional Advertising and Marketing
- |        |   |  |
|--------|---|--|
| 9755.1 | - | Promotional advertising/marketing salary |
| 9755.2 | - | Promotional advertising/marketing other  |
- 9760 Contributions and Donations- "HCFA Publication 15-1," section 608
- 9765 Bad Debt
- 9770 Parenteral Nutrition Therapy

Table 8

## CAPITAL COST CENTER

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**COST OF OWNERSHIP  
PROPERTY, PLANT, EQUIPMENT AND EXTENSIVE RENOVATIONS**

Cost of ownership means the actual expense incurred for all of the following:

- (A) Depreciation and interest on any capital asset with a cost of five hundred dollars or more per item and a useful life of at least two (2) years. Provider may, if it desires, establish a capitalization policy with lower minimum criteria, but under no circumstances may the five hundred dollars criteria be exceeded.
  - (1) Buildings;
  - (2) Building improvements that are not approved as nonextensive renovations under section 5111.25 or 5111.251 of the Revised Code;
  - (3) Equipment;
  - (4) Extensive renovations;
  - (5) Transportation equipment;
- (B) Amortization and interest on land improvements and leasehold improvements;
- (C) Amortization of financing costs;
- (D) Lease and rent of land, building, and equipment that does not qualify for account 7400 leased equipment.

**RENOVATIONS COST CENTER**

Renovation and extensive renovation mean any betterment, improvement, or restoration of nursing facility or intermediate care facility for the mentally retarded started before July 1, 1993, that meets the definition of a renovation or extensive renovation established in rules adopted by the department in effect on December 22, 1992.

In the case of betterments, improvements, and restorations of nursing facilities and intermediate care facilities for the mentally retarded started on or after July 1, 1993:

- (1) Renovation means the betterment, improvement, or restoration of a nursing facility or intermediate care facility for the mentally retarded beyond its current functional capacity through a structural change that costs at least five hundred dollars per bed. A renovation may include betterment, improvement, restoration, or replacement of assets that are affixed to the building and have a useful life of at least five years. A renovation may include costs that otherwise would be considered maintenance and repair expenses if they are an integral part of the

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structural change that makes up the renovation project. Renovation does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity beyond its current functional capacity through a structural change. A renovation may include betterment, improvement, restoration or replacement of assets that are affixed to the building and have a useful life of at least five years. "Renovation" does not mean construction of additional space for beds that will be added to a facility's licensed or certified capacity.

- (2) Extensive renovation means a renovation that costs more than sixty-five per cent and no more than eighty-five per cent of the cost of constructing a new bed and that extends the useful life of the assets for at least ten years.

#### INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

[All ICFs-MR need only use group (A).]

#### NURSING FACILITIES

Nursing facilities that did not change ownership on or after 7/1/93 need only use group (A).

Nursing facilities that did change provider agreement on or after 7/1/93 use groups (A) and (B).

#### GROUP (A) ASSETS ACQUIRED

8010 Depreciation-Building and building improvements  
Depreciation of building and building improvements.

8020 Amortization-Land improvements  
Amortization expense for land improvements.

8030 Amortization-Leasehold improvements  
Amortization expense of leasehold improvements that are amortized over the remaining life of the lease or the useful life of the improvement, but no less than five years. If the useful life of the improvement is less than five years, it may be amortized over its useful life. Options on leases will not be considered in the computation for amortization of leasehold improvements.

8040 Depreciation-Equipment  
Depreciation expense for equipment.

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- 8050 Depreciation-Transportation equipment  
Depreciation expense for transportation equipment.
- 8060 Lease and Rent - Building  
Expense incurred for lease and rental expenses relating to buildings. Capitalized assets as a result of lease obligations should be depreciated and included in the proper depreciation accounts.
- 8065 Lease and Rent - Equipment  
Expense incurred for lease and rental expenses relating to equipment. Capitalized assets as a result of lease obligations should be depreciated and included in the proper depreciation account. (Cost of equipment, including vehicles, acquired by operating lease executed before 12/01/92, and the costs are reported as administrative and general on the facility's cost report for period ending 12/31/92 are to be reported on indirect.)
- 8070 Interest Expense - Property, plant and equipment  
Interest expense incurred on mortgage notes, capitalized lease obligations, and other borrowing for the acquisition of land, buildings and equipment.
- 8080 Amortization of Financing Cost  
Amortization expense of long term financing cost such as cost of issuing bonds, underwriting fees, closing costs, mortgage points, etc.

#### HOME OFFICE COSTS

- 8090 Home Office Costs/Capital - Capital expenses of a separate division or entity which owns, leases or manages more than one facility (home office). These costs must be related to capital cost as specified in the capital cost center, and are allocated to the facility in accordance with "HCFA Publication 15-1," sections 2150 through 2150.3, "Home Office Costs". (All home office costs for group (A) are to be entered in this account. They are not to be distributed to any other account in this group.)

#### RENOVATIONS

- 8500 Depreciation/Amortization  
Depreciation and amortization expenses for renovations.
- 8570 Interest - Renovations  
Interest expense incurred on mortgage notes, capitalized lease obligations, and other borrowing for renovation purposes.
- 8580 Amortization of Financing Cost - Renovations  
Amortization expense for cost of issuing bonds, underwriting fees, closing

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costs, mortgage points, etc. incurred for renovations.

**GROUP (B) ASSETS ACQUIRED THROUGH A CHANGE OF PROVIDER AGREEMENT**

Nursing facilities, other than leased facilities, that changed provider agreement on or after 7/1/93 use this group to report expenses incurred through a change of provider agreement on or after 7/1/93. Leased nursing facilities that changed provider agreement on or after 5/27/92 use this group to report expenses incurred through a change of provider agreement on or after 5/27/92.

- 8110      Depreciation - Building and building improvements  
Depreciation of building and building improvements acquired through a change of provider agreement on or after 7/1/93.
- 8140      Depreciation - Equipment  
Depreciation expense for equipment acquired through a change of provider agreement on or after 7/1/93.
- 8170      Interest expense - Property, plant and equipment  
Interest expense incurred on mortgage notes, capitalized lease obligations, and other borrowing for the acquisition of land, buildings and equipment acquired through a change of provider agreement on or after 7/1/93.
- 8180      Amortization of Financing Cost  
Amortization expense of long term financing costs such as cost of issuing bonds, underwriting fees, closing costs, mortgage points, etc., acquired through a change of provider agreement on or after 7/1/93.
- 8195      Lease Expense  
Lease expenses incurred through a change of provider agreement on or after 5/27/92.

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Certification: \_\_\_\_\_

\_\_\_\_\_  
Date

Promulgated under: RC Chapter 119.

Statutory authority: RC Section 5111.02

Rule amplifies: RC Sections 5111.01, 5111.02, 5111.23 to 5111.28, Am.Sub.H.B.94  
Section 63.37

Prior effective dates: 3/29/85, 8/1/87, 1/2/90 (Emer.), 3/22/90, 10/1/91 (Emer.),  
12/20/91, 7/1/93 (Emer.), 9/30/93 (Emer.), 12/30/93, 3/18/94, 12/28/95, 3/20/97  
(Emer.), 5/22/97, 3/31/98 (Emer.), 4/27/98, 12/28/00

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5101:3-3-45 Purchased nursing services reimbursement for nursing facilities (NFs).

The purchased nursing services reimbursement calculation set forth under this rule shall be performed by the Ohio department of jobs and family services (ODJFS) under the provisions of rule 5101:3-3-43 of the Administrative Code.

- (A) Costs reported in NFs' cost reports for purchased nursing services, as defined under rule 5101:3-3-01 of the Administrative Code, shall be allowable direct care costs subject to the payment provisions of rule 5101:3-3-44 of the Administrative Code. "Employed nursing services" are those services provided by RNs, LPNs, and nurse aides that are not purchased nursing services. Purchased nursing services costs, as defined under rule 5101:3-3-01 of the Administrative Code, are reimbursable up to the following percentages of allowable employed nursing services costs:
- (1) Twenty per cent of employed nursing services costs incurred during calendar year 1992 ~~and FOR RATES~~ paid effective July 1, 1993 through June 30, 1994;
  - (2) Fifteen per cent of employed nursing services costs incurred during calendar year 1993 ~~and FOR RATES~~ paid effective July 1, 1994 through June 30, 1995;
  - (3) Ten per cent of employed nursing services costs incurred during calendar year 1994 ~~and each calendar year thereafter~~ THROUGH CALENDAR YEAR 1998 ~~and FOR RATES~~ paid ~~beginning~~ EFFECTIVE July 1, 1995 through June 30, 2000;
  - (4) Seventeen per cent of employed nursing services costs incurred during calendar year 1999 ~~and FOR RATES~~ paid effective July 1, 2000 through June 30, 2001;
  - (5) ~~Ten~~ TWENTY per cent of employed nursing services costs incurred during calendar year 2000 and each calendar year thereafter ~~and FOR RATES~~ paid ~~beginning~~ EFFECTIVE July 1, 2001 and forward.
- (B) Purchased nursing services costs in excess of percentages of allowable employed nursing services set forth in paragraphs (A)(1) to (A)(5) of this rule are reimbursed at fifty per cent. Purchased nursing services costs in excess of the fifty per cent reimbursement are nonallowable costs as set forth in rule 5101:3-3-56 of the Administrative Code.

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Promulgated Under: RC Chapter 119.

Statutory Authority: RC Section 5111.02

Rule Amplifies: RC Sections 5111.01, 5111.02, 5111.20, 5111.262

Prior Effective Dates: 9/30/93 (Emer.); 1/1/94, 9/28/00

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TN #00-011 EFFECTIVE DATE 7/1/01



~~5101:3-3-491~~ 5101:3-3-49.1 Nursing Facilities (NFs): Method for establishing reimbursement for the franchise permit fee: REPORTED IN ACCOUNT 6091.

The Ohio department of ~~human services~~ (ODHS) JOB AND FAMILY SERVICES (ODJFS) shall include a per diem for the franchise permit fee in the prospective rate of each NF required to pay the franchise permit fee pursuant to rules ~~5101:3-3-492~~ 5101:3-3-49.2 to ~~5101:3-3-499~~ 5101:3-3-49.9 of the Administrative Code. This per diem shall be calculated as set forth in paragraphs (A) and (B) of this rule.

- (A) Beginning July first of each fiscal year, a per diem will be calculated by dividing the total franchise permit fee expense reported IN ACCOUNT 6091 on each NF's cost report for the calendar year preceding the fiscal year in which the rate is paid by the total inpatient days reported on the NF's cost report. This per diem will be added to the per diem rate for each NF under the other protected cost center after the per diem rate for the other protected costs is calculated and adjusted for inflation under rule 5101:3-3-49 of the Administrative Code.
- (B) For NFs new to the medical assistance program ~~or facilities which have experienced a change in provider agreement and have filed cost reports~~ THAT HAVE NOT RECEIVED A FRANCHISE PERMIT FEE ASSESSMENT AND ARE REQUIRED TO FILE A COST REPORT pursuant to paragraph ~~(B)(1)(d)~~ of rule 5101:3-3-20 of the Administrative Code, the franchise permit fee per diem for the fiscal year preceding SUBSEQUENT TO the date of participation in the program shall be calculated as follows:
- (1) Compute the franchise permit fee payable by multiplying the licensed bed days available from the cost report by one dollar; and
  - (2) Compute the franchise permit fee per diem by dividing the franchise permit fee payable by the total inpatient days from the cost report; and
  - (3) The franchise permit fee per diem is added to the other protected care cost per diem after the adjustment for inflation under rule 5101:3-3-49 of the Administrative Code.

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Promulgated Under: RC Chapter 119.  
Statutory Authority: RC Sections 3721.511, 3721.58  
Rule Amplifies: RC Sections 3721.50 to 3721.58  
Prior Effective Dates: 9/30/93 (Emer.), 01/01/94, 12/17/98

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5101:3-3-49.2 IDENTIFICATION OF NURSING FACILITY (NF) AND HOSPITAL BEDS SUBJECT TO THE FRANCHISE PERMIT FEE (FPF).

- (A) HOSPITAL BEDS SUBJECT TO THE FPF SHALL INCLUDE:
- (1) BEDS REGISTERED PURSUANT TO SECTION 3721.07 OF THE REVISED CODE AS SKILLED NURSING FACILITY (SNF) BEDS OR LONG TERM CARE BEDS;
  - (2) BEDS LICENSED AS NURSING HOME BEDS UNDER SECTION 3721.02 OR 3721.09 OF THE REVISED CODE.
- (B) HOSPITAL BEDS SUBJECT TO THE FPF SHALL NOT INCLUDE:
- (1) BEDS REGISTERED PURSUANT TO SECTION 3701.07 OF THE REVISED CODE BUT NOT REGISTERED AS LONG TERM CARE OR SKILLED NURSING FACILITY BEDS
  - (2) BEDS REGISTERED PURSUANT TO SECTION 3701.07 OF THE REVISED CODE AS HOSPICE OR ALCOHOL AND/OR DRUG ABUSE REHABILITATION BEDS.
- (C) IN ACCORDANCE WITH SECTION 3721.52 OF THE REVISED CODE, BY JUNE FIRST OF EACH YEAR, THE OHIO DEPARTMENT OF HEALTH (ODH) SHALL PROVIDE TO THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES (ODJFS) A LIST OF THE NUMBER OF BEDS, AS OF THE PRECEDING MAY FIRST, FOR EACH HOSPITAL, AS DEFINED IN PARAGRAPH (A) OF THIS RULE. THE LIST SHALL CONTAIN THE NAME AND ADDRESS OF EACH HOSPITAL AND ANY OTHER IDENTIFIERS STIPULATED AS NECESSARY BY ODJFS.
- (D) NURSING HOME BEDS SUBJECT TO THE FPF SHALL INCLUDE:
- (1) BEDS LOCATED IN ANY PART OF A HOME LICENSED AS A NURSING HOME OR BEDS LOCATED IN ANY PART OF A HOME FOR THE AGED LICENSED AS A NURSING HOME UNDER SECTION 3721.02 OR 3721.09 OF THE REVISED CODE.

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- (2) BEDS LOCATED IN A FACILITY OR PART OF A FACILITY, OTHER THAN A HOSPITAL, THAT IS CERTIFIED AS A SNF UNDER TITLE XVIII OF THE SOCIAL SECURITY ACT, 49 STAT. 620 (1935), 42 U. S. C. A. 301, AS AMENDED;
  - (3) BEDS LOCATED IN A NF AS DEFINED IN RULE 5101:3-3-01 OF THE ADMINISTRATIVE CODE, OTHER THAN A PORTION OF A HOSPITAL CERTIFIED AS A NURSING FACILITY.
- (E) NURSING HOME BEDS SUBJECT TO THE NF FPF SHALL NOT INCLUDE:
- (1) BEDS LOCATED IN A COUNTY OWNED HOME, COUNTY OWNED NURSING HOME, OR DISTRICT HOME OPERATED PURSUANT TO CHAPTER 5155. OF THE REVISED CODE.
  - (2) BEDS LOCATED IN A NURSING HOME OR PART OF A NURSING HOME LICENSED UNDER SECTION 3721.02 OR 3721.09 OF THE REVISED CODE THAT IS CERTIFIED AS AN INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED (ICF-MR) UNDER TITLE XIX OF THE SOCIAL SECURITY ACT.
- (F) IN ACCORDANCE WITH SECTION 3721.52 OF THE REVISED CODE, BY JUNE FIRST OF EACH YEAR, ODH SHALL PROVIDE ODJFS A LIST OF THE NUMBER OF BEDS, AS OF THE PRECEDING MAY FIRST, FOR EACH NURSING HOME AS DEFINED IN PARAGRAPH (D) OF THIS RULE. THE LIST SHALL INCLUDE THE NAME AND ADDRESS OF EACH FACILITY AND ANY OTHER IDENTIFIERS STIPULATED AS NECESSARY BY ODJFS.
- (G) EXEMPTIONS FROM THE FPF.

UNDER CERTAIN CONDITIONS, ODJFS MAY GRANT QUALIFIED NURSING HOMES, SUBJECT TO THE FPF IN ACCORDANCE WITH PARAGRAPH (D) OF THIS RULE, AN EXEMPTION FROM THE FPF. TO QUALIFY FOR AN EXEMPTION, A NURSING HOME MUST:

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- (1) BE EXEMPT FROM STATE TAXATION AS A HOME FOR THE AGED UNDER DIVISION (C) OF SECTION 5701.13 OF THE REVISED CODE;
  - (2) BE EXEMPT FROM FEDERAL INCOME TAXATION UNDER SECTION 501 OF THE INTERNAL REVENUE CODE of 1986, 100 STAT. 2085, 26 U. S. C. A. 1, AS AMENDED;
  - (3) PROVIDE SERVICES FOR THE LIFE OF EACH RESIDENT WITHOUT REGARD TO THE RESIDENT'S ABILITY TO CONTINUE PAYMENTS FOR SERVICES;
  - (4) NOT HAVE A PROVIDER AGREEMENT WITH ODJFS AS A NF UNDER CHAPTER 5111. OF THE REVISED CODE;
  - (5) SUBMIT A NOTARIZED STATEMENT TO ODJFS, FACILITY CONTRACTING SECTION, CONFIRMING THAT THE FACILITY MEETS THE REQUIREMENTS OF PARAGRAPHS (G)(1) TO (G)(4) OF THIS RULE.
- (H) ANNUAL RENEWAL OF EXEMPT STATUS.

ALL FACILITIES PREVIOUSLY EXEMPT FROM THE NF FPF FOR THE IMMEDIATE PRECEDING FISCAL YEAR MUST SUBMIT, BY JULY FIRST OF EACH YEAR, A NOTARIZED STATEMENT CONFIRMING THAT THE FACILITY CONTINUES TO MEET THE REQUIREMENTS LISTED IN PARAGRAPH (G) OF THIS RULE. FACILITIES FAILING TO MEET THE REQUIREMENTS IN PARAGRAPH (G) OF THIS RULE, OR FAILING TO SUBMIT TIMELY ANNUAL NOTARIZED STATEMENTS, WILL LOSE THEIR EXEMPTION AND WILL RECEIVE AN FPF ASSESSMENT NOTICE.

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## (I) LIMITATIONS ON THE NUMBER OF EXEMPTIONS.

THE NUMBER OF EXEMPTIONS GRANTED WILL BE LIMITED, AS NECESSARY, TO ENSURE THAT THE FPF REMAINS GENERALLY REDISTRIBUTIVE AS REQUIRED BY PARAGRAPH (E)(1) OF 42 C.F.R. 433.68. IF IT IS NECESSARY FOR ODJFS TO LIMIT THE NUMBER OF EXEMPTIONS GRANTED, ODJFS SHALL:

- (1) FIRST, EXEMPT NURSING HOMES THAT CHARGE RESIDENTS FOR SERVICES, GIVING PRIORITY TO NURSING HOMES THAT PROVIDE THE GREATEST AMOUNT OF CHARITABLE SUBSIDIZATION PER BED. FOR THE PURPOSES OF DETERMINING CHARITABLE SUBSIDIZATION PER BED, ODJFS SHALL REVIEW THE FOLLOWING INFORMATION WHICH MUST BE SUBMITTED BY EACH NURSING HOME OR HOME FOR THE AGED WHICH IS SEEKING EXEMPTION FROM THE FPF:
  - (a) A COPY OF THE SECTION OF THE HOME'S ADMISSIONS MANUAL IN WHICH THE POLICIES AND PROCEDURES REGARDING THE PROVISION OF CHARITY CARE ARE DELINEATED;
  - (b) AN ITEMIZED LIST CONTAINING THE DOLLAR AMOUNT OF CHARITABLE CARE AND RESIDENT'S NAME FOR WHOM CHARITABLE CARE WAS PROVIDED DURING THE PRECEDING CALENDAR YEAR. THIS LIST MUST BE SIGNED AND CERTIFIED AS ACCURATE BY AN OFFICER OF THE CORPORATION;
  - (c) A COPY OF THE AUDITED STATEMENT OF SUPPORT, REVENUE AND EXPENSES FOR THE PREVIOUS CALENDAR YEAR, OR IF NO AUDITED STATEMENT EXISTS, A COPY OF INTERNAL REVENUE SERVICE FORM 990 PART I, PART II, PART III, AND SUPPORTING SCHEDULES, IF ANY, FOR EACH PART.

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- (2) SECOND, EXEMPT NURSING HOMES THAT DO NOT  
CHARGE RESIDENTS FOR SERVICES.

REPLACES RULES: 5101:3-3-49.2, 5101:3-3-49.4 AND 5101:3-3-49.5 IN PART

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\_\_\_\_\_  
DATE

PROMULGATED UNDER:	RC CHAPTER 119.
STATUTORY AUTHORITY:	RC SECTIONS 3721.511, 3721.58
RULE AMPLIFIES:	RC SECTIONS 3721.50 TO 3721.58
PRIOR EFFECTIVE DATES:	01/01/94, 12/17/98

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5101:3-3-49.3 CALCULATION, BILLING, COLLECTION AND APPEAL  
PROCESS FOR THE FRANCHISE PERMIT FEE (FPF).

(A) FORMULA FOR CALCULATING THE FPF.

THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES (ODJFS) SHALL ANNUALLY ASSESS EACH HOSPITAL AND NURSING HOME A FPF, BASED ON BEDS AS DEFINED IN RULE 5101:3-3-49.2 OF THE ADMINISTRATIVE CODE. THE FPF SHALL BE CALCULATED AS FOLLOWS: NUMBER OF BEDS, MULTIPLIED BY THE NUMBER OF DAYS IN THE FISCAL YEAR, MULTIPLIED BY THE PER BED FPF RATE. THE FPF PER BED RATE WILL BE THREE DOLLARS AND THIRTY CENTS FOR FISCAL YEARS 2002 AND 2003 AND ONE DOLLAR FOR EACH FISCAL YEAR THEREAFTER.

(B) BILLING OF THE FPF.

- (1) BY AUGUST FIFTEENTH OF EACH YEAR, ODJFS SHALL DETERMINE THE ANNUAL FPF FOR EACH HOSPITAL AND EACH NURSING HOME IN ACCORDANCE WITH RULE 5101:3-3-49.2 OF THE ADMINISTRATIVE CODE.
- (2) BY SEPTEMBER FIRST OF EACH YEAR, ODJFS SHALL NOTIFY EACH NURSING HOME AND HOSPITAL OF THE AMOUNT OF THE FPF THAT HAS BEEN ASSESSED. THIS NOTIFICATION WILL USE THE OHIO DEPARTMENT OF HEALTH (ODH) HOME NUMBER AS THE PROVIDER FEE NUMBER FOR FACILITY IDENTIFICATION PURPOSES.

(C) COLLECTION OF THE FPF.

- (1) THE FPF IS PAYABLE IN FOUR QUARTERLY INSTALLMENTS WITH THE FIRST INSTALLMENT FOR THE STATE FISCAL YEAR DUE ON OR BEFORE NOVEMBER FOURTEENTH. THE REMAINING THREE INSTALLMENTS ARE DUE ON OR BEFORE FEBRUARY FOURTEENTH, MAY FIFTEENTH AND AUGUST FOURTEENTH. ALL CHECKS, MONEY ORDERS, AND OTHER PAYMENT FORMS MUST INCLUDE THE PROVIDER FEE NUMBER OF THE FACILITY

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ORIGINALLY ASSESSED THE FPF, BE MADE PAYABLE TO: "TREASURER OF THE STATE OF OHIO," AND BE MAILED TO THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES, DEPT. 633, COLUMBUS, OHIO 43266.

- (D) IF THE FPF PAYMENT IS NOT RECEIVED ON OR BEFORE THE PAYMENT DUE DATE, ODJFS MAY COLLECT THE FPF AND ANY APPLICABLE PENALTIES FROM ANY OPERATOR, OR ANY ENTITY RESPONSIBLE FOR THE FPF AS INDICATED IN APPLICABLE AGREEMENTS BETWEEN OPERATORS, WHICH IS OR WAS RESPONSIBLE FOR THE FACILITY OPERATION DURING OR AFTER THE QUARTER FOR WHICH THE INSTALLMENT PAYMENT WAS DUE.
- (1) IN THE EVENT OF A CLOSURE WHEN THE LICENSE OR REGISTRATION FOR THE BEDS IS SURRENDERED THE FPF REMAINS A PAYABLE DEBT AND IF UNPAID WILL BE REFERRED TO THE OHIO ATTORNEY GENERAL'S OFFICE FOR COLLECTION.
- (2) PAYMENTS FOR ALL FPF ASSESSMENTS ARE TRACKED BY THE PROVIDER FEE NUMBER OF THE FACILITY WHICH WAS ORIGINALLY BILLED FOR THE FPF.
- (3) A NURSING HOME OR HOSPITAL ASSESSED AN FPF UNDER RULE 5101:3-3-49.2 OF THE ADMINISTRATIVE CODE SHALL NOT DIRECTLY BILL ITS RESIDENTS FOR THE FPF.
- (E) ODJFS MAY ESTABLISH AN ELECTRONIC METHOD TO COLLECT THE FPF FROM EACH NURSING HOME OR HOSPITAL CERTIFIED UNDER TITLE XIX OF THE SOCIAL SECURITY ACT BY DEDUCTING THE AMOUNT DUE FROM THE FACILITY'S MEDICAID VENDOR PAYMENT. ODJFS SHALL NOTIFY THE AFFECTED FACILITIES, IN WRITING, SIXTY DAYS PRIOR TO THE INITIATION OF ELECTRONIC COLLECTIONS.

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(F) APPEAL OF THE FPE.

- (1) THE FPE MAY BE APPEALED ONLY ON THE BASIS THAT ODJFS COMMITTED A CALCULATION ERROR IN DETERMINING THE FPE. BEFORE REQUESTING AN APPEAL, A FACILITY SHOULD CONTACT THE ODJFS, BUREAU OF LONG TERM CARE FACILITIES (BLTCF), FACILITY CONTRACTING SECTION (FCS) TO DISCUSS THE PROBLEM. IF THE PROBLEM CANNOT BE RESOLVED INFORMALLY, THE FACILITY MAY FILE AN APPEAL IN ACCORDANCE WITH THE FOLLOWING PROCEDURES:
  - (a) THE APPEAL SHALL BE IN WRITING AND MUST BE RECEIVED BY ODJFS NOT LATER THAN FIFTEEN DAYS AFTER THE DATE ON WHICH THE FPE ASSESSMENT NOTICE WAS MAILED; AND
  - (b) THE APPEAL SHALL BE ADDRESSED TO "THE OFFICE OF OHIO HEALTH PLANS, THE BUREAU OF LONG TERM CARE FACILITIES, 30 EAST BROAD STREET, 33<sup>RD</sup> FLOOR, COLUMBUS, OHIO 43215-3414. ATTENTION: FRANCHISE PERMIT FEE APPEALS;" AND
  - (c) THE APPEAL SHALL INDICATE THAT IT IS AN APPEAL OF THE FPE DUE TO A POSSIBLE ERROR IN THE CALCULATION OF THE FPE; AND
  - (d) THE APPEAL SHALL INCLUDE A DETAILED EXPLANATION OF THE POSSIBLE ERROR AND THE PROPOSED CORRECTED CALCULATION; AND
  - (e) THE APPEAL SHALL INCLUDE REFERENCES TO THE RELEVANT SECTIONS OF THE REVISED CODE AND/OR ADMINISTRATIVE CODE RULES WHICH SUPPORT THE POSITION OF THE APPEAL.

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- (2) UPON RECEIVING A TIMELY REQUEST FOR AN APPEAL, ODJFS SHALL CONDUCT A PUBLIC HEARING IN COLUMBUS, OHIO NOT LATER THAN THIRTY DAYS AFTER THE REQUEST FOR APPEAL HAS BEEN RECEIVED. AT THIS HEARING A REVIEW TO DETERMINE THE VALIDITY OF THE FPF CALCULATION WILL BE CONDUCTED. AT LEAST TEN DAYS PRIOR TO THE DATE OF THE HEARING, ODJFS SHALL NOTIFY THE NURSING HOME OR HOSPITAL OF THE TIME, DATE AND LOCATION OF THE PUBLIC HEARING. IF THE REPRESENTATIVE OF A FACILITY IS UNABLE TO ATTEND A HEARING, THE REPRESENTATIVE SHALL, AT LEAST FIVE DAYS PRIOR TO THE SCHEDULED HEARING, REQUEST A TELE-CONFERENCE HEARING.
- (3) ODJFS MAY ADJUST A NURSING HOME OR HOSPITAL FPF BASED ON THE EVIDENCE PRESENTED AT THE PUBLIC HEARING. THE DECISION OF ODJFS IS FINAL.

REPLACES RULES: 5101:3-3-49.3, 5101:3-3-49.5 IN PART AND 5101:3-3-49.6

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PROMULGATED UNDER:	RC CHAPTER 119.
STATUTORY AUTHORITY:	RC 3721.511, 3721.58
RULE AMPLIFIES:	RC 3721.50 TO 3721.58
PRIOR EFFECTIVE DATES:	9/30/93 (EMER.), 1/01/94

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5101:3-3-49.7 METHOD OF DISTRIBUTION OF FRANCHISE PERMIT FEE  
(FPF) PROCEEDS.

PROCEEDS FROM COLLECTION OF THE FPF FROM HOSPITALS AND NURSING HOMES SHALL BE DEPOSITED IN THE FOLLOWING MANNER:

- (A) SIXTY-NINE AND SEVEN-TENTHS PER CENT OF ALL FPF PAYMENTS AND PENALTIES PAID BY NURSING HOMES AND HOSPITALS UNDER SECTIONS 3721.53 AND 3721.54 OF THE REVISED CODE FOR FISCAL YEARS 2002 AND 2003 SHALL BE DEPOSITED INTO THE NURSING FACILITY STABILIZATION FUND CREATED IN THE STATE TREASURY AND SHALL BE USED TO MAKE PAYMENTS TO NURSING FACILITIES UNDER RULE 5101:3-3-58 OF THE ADMINISTRATIVE CODE.

ANY INTEREST OR OTHER INVESTMENT PROCEEDS EARNED ON MONEY IN THE FUND SHALL BE CREDITED TO THE FUND. MONEY REMAINING IN THE NURSING FACILITY STABILIZATION FUND, AFTER PAYMENTS ARE MADE FOR FISCAL YEARS 2002 AND 2003, SHALL BE RETAINED IN THE FUND.

- (B) THIRTY AND THREE-TENTHS PER CENT OF ALL FPF PAYMENTS AND PENALTIES PAID BY NURSING HOMES AND HOSPITALS UNDER SECTIONS 3721.53 AND 3721.54 OF THE REVISED CODE FOR FISCAL YEARS 2002 AND 2003, AND ALL SUCH PAYMENTS AND PENALTIES PAID FOR SUBSEQUENT FISCAL YEARS SHALL BE DEPOSITED IN THE "HOME AND COMMUNITY-BASED SERVICES FOR THE AGED FUND" AND SHALL BE USED TO FUND PROGRAMS AS FOLLOWS:

- (1) FIRST, TO FUND THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED UNDER CHAPTER 5111 OF THE REVISED CODE; AND
- (2) SECOND, TO FUND THE PASSPORT PROGRAM ESTABLISHED UNDER SECTION 137.40 OF THE REVISED CODE; AND

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- (3) THIRD, TO FUND THE RESIDENTIAL STATE SUPPLEMENT PROGRAM ESTABLISHED UNDER SECTION 173.35 OF THE REVISED CODE.
- (4) FOR FISCAL YEARS 2002 AND 2003 CASH IN EXCESS OF THE AMOUNTS NEEDED FOR THE ABOVE TRANSFERS MAY BE USED BY THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES (ODJFS) FOR THE FOLLOWING PURPOSES:
- (a) UP TO ONE MILLION DOLLARS IN EACH FISCAL YEAR TO FUND THE STATE SHARE OF AUDITS OF MEDICAID COST REPORTS FILED WITH THE ODJFS BY NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED (ICFS-MR)
- (b) UP TO ONE HUNDRED AND FIFTY THOUSAND DOLLARS IN FISCAL YEAR 2002 AND UP TO TWO HUNDRED AND FIFTY THOUSAND DOLLARS IN FISCAL YEAR 2003 TO PROVIDE QUALIFIED RECIPIENTS A ONE TIME TRANSITION BENEFIT UNDER THE OHIO ACCESS SUCCESS PROJECT THAT THE ODJFS DIRECTOR MAY ESTABLISH.

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Promulgated under: RC Chapter 119.  
Statutory authority: RC Sections 3721.511, 3721.58  
Rule amplifies: RC Sections 3721.50 to 3721.58, AM. SUB. HB. 94  
Prior effective date: 9/30/93 (emer), 1/01/94, 5/01/98

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~~5101:3-3-498~~ 5101:3-3-49.8 Enforcement of franchise permit fee program.

- (A) ~~ODHS~~ THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES (ODJFS) may make any investigation it considers appropriate to fulfill the responsibilities of rules ~~5101:3-3-492~~, to 5101:3-3-49.2, 5101:3-3-49.3, 5101:3-3-49.7, 5101:3-3-49.8 AND ~~5101:3-3-499~~ 5101:3-3-49.9 of the Administrative Code.
- (B) In accordance with section 3721.56 OF THE REVISED CODE, at the request of ~~ODHS~~ ODJFS, the attorney general shall aid in any such investigation and shall institute and prosecute all actions for enforcement of rules ~~5101:3-3-492~~ 5101:3-3-49.2, ~~5101:3-3-493~~ 5101:3-3-49.3 AND to ~~5101:3-3-498~~ 5101:3-3-49.7 TO 5101:3-3-49.9 of the Administrative Code, except where the attorney general has requested the county prosecutor in the county in which the home or hospital is located, to institute and prosecute all necessary action against a nursing home or hospital that has failed to comply with THE ABOVE rules ~~5101:3-3-492 to 5101:3-3-498~~ of the Administrative Code.

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~~5101:3-3-499~~ 5101:3-3-49.9 Procedure for terminating the franchise permit fee (FPF) program FOR NURSING FACILITIES(NFS) AND HOSPITALS.

~~(A)~~ If the United States health care financing administration (HCFA) determines that the franchise permit fee is an impermissible health care related tax, the Ohio department of human services, (ODHS) shall take the following steps to cease implementation of rules ~~5101:3-3-492 to 5101:3-3-498~~ of the Administrative Code.

IF THE CENTER FOR MEDICARE AND MEDICAID SERVICES (CMS) DETERMINES THAT THE FRANCHISE PERMIT FEE (FPF) IS AN IMPERMISSIBLE HEALTH CARE RELATED TAX, THE OHIO DEPARTMENT OF JOB AND FAMILY SERVICES (ODJFS) SHALL TAKE THE FOLLOWING STEPS TO CEASE IMPLEMENTATION OF RULES 5101:3-3-49.2, 5101:3-3-49.3, 5101:3-3-49.7, 5101:3-3-49.8 AND 5101:3-3-49.9 OF THE ADMINISTRATIVE CODE.

~~(B)~~(A) ~~ODHS~~ ODJFS shall notify each nursing home or hospital, previously assessed a ~~franchise fee~~ FPF, of the effective date of the termination of the ~~franchise fee~~ FPF program, and what impact this change will have on their facility. The effective date of the termination of the program will be the date on which ~~HCFA~~ CMS determines that the ~~fee~~ FPF does not qualify for federal financial participation.

~~(C)~~ (B) ~~ODHS~~ ODJFS shall conduct an accounting of the funds paid to or collected from each nursing home or hospital assessed a ~~franchise fee~~ THE FPF, from the date stipulated in paragraph ~~(B)~~ (A) of this rule, and do the following:

- (1) Adjust the rate of each nursing home or hospital assessed a ~~franchise fee~~ THE FPF to remove any funding associated with the ~~franchise fee~~ FPF program.
- (2) For nursing homes or hospitals which participate in the medicaid program, refund, if necessary, to each nursing home or hospital assessed a ~~franchise permit fee~~ THE FPF, the portion of the ~~franchise permit fee~~ FPF, collected after the effective date stipulated in paragraph ~~(B)~~ (A) of this rule, that represents funding in excess of that provided in the nursing home or hospital's rate for ~~franchise permit fee~~ FPF purposes.

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- (3) For nursing homes or hospitals that do not participate in the medicaid program, refund, if necessary, to each nursing home or hospital assessed a ~~franchise permit fee~~ THE FPF, any ~~fee~~ FPF paid after the date specified in paragraph ~~(B)~~ (A) of this rule.
- (4) Collect, if necessary, after the effective date in paragraph ~~(B)~~ (A) of this rule, from each nursing home or hospital which participates in the medicaid program and who was assessed a ~~franchise permit fee~~ THE FPF, any funding previously included in the rate of a nursing home or hospital for ~~franchise permit fee~~ FPF purposes.
- (5) Collect, if necessary, from nursing homes or hospitals that do not participate in the medicaid program and who have been assessed a ~~franchise permit fee~~ THE FPF, after the effective date stipulated in paragraph ~~(B)~~ (A) of this rule, any portion of the ~~franchise permit fee~~ FPF due up to the date specified in paragraph ~~(B)~~ (A) of this rule.

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